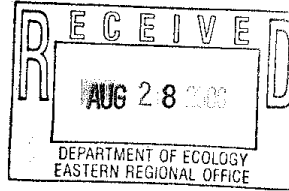


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**GRANT COUNTY
WATER CONSERVANCY BOARD**

Application for Change/Transfer

Record of Decision

Applicant: **James and Marjory Sackett** DOE WRATS Number: CS4-*1425C

This record of decision was made at an open public meeting of the Grant County Water Conservancy Board held on August 24, 2006

Approval: The Grant County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on August 24, 2006 and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.

Denial: The Grant County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on (date report of exam was signed) and submits this record of decision to the Department of Ecology for final review or consideration.

Signed:

W. Ron Baker, Commissioner
Grant County Water Conservancy Board

Date: 8-24-06 Approves

Denies
Recuse

Keith Ellis, Commissioner
Grant County Water Conservancy Board

Date: 8-24-06 Approves

Denies
Recuse

Robert S. Rolfness, Chair
Grant County Water Conservancy Board

Date: 8-24-06 Approves

Denies
Recuse

Mailed to the Department of Ecology Eastern Regional Office of Ecology, via tracked mail, and other interested parties on August 24th, 2006.

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer

That Portion of the NE ¼, the N ½ SE ¼, and the SE ¼ SE ¼ of Section 18, T20N, R23 E.W.M., Grant County, Washington lying south and west of the following described line: Commencing at a Brass Cap Monument Case as shown on Survey recorded in Book 13 of Surveys at page 62, Records of Grant County, at the South quarter corner of said Section 18: thence North 00 06' 13" West, 2623.85 feet to a 5/8 inch rebar center quarter as shown on said Survey; thence continue North 00 06' 13" West, 1374.76 feet to the True Point of Beginning of said described line; thence South 84 21' 57" East, 1025.44 feet to a 5/8 inch iron pin; thence South 35 19' 27" East 2823.11 feet to a 5/8 inch iron pin; thence South 23 04' 45" West, 1082.50 feet to a 5/8 inch rebar; thence continue South 23 04' 45" West 655.20 feet to the South line of said SE ¼ of the SE ¼ and end of said described line.

(Parcels numbered 150637008 and 150637003)

The North 321 feet of the SW ¼ of the SE ¼ and the North 300 feet of Lot No. 3 Crescent Irrigated Lands Lying east of the Crescent Irrigation ditch within Section 18 and that portion of the W ½ NE ¼ SW ¼ of Section 18 Lying north of the right of way of the county road as established by deed dated and recorded May 29, 1961, under auditor's file No. 387035. All within T20N., R. 23 E.W.M. in Grant County, Washington.

Parcels numbered 150637004, 150626000, 150637005, 150637003

That portion of the S ½ NW ¼ and the NE ¼ NW ¼ of Section 18, T20N, R23 E.W.M. of Grant County Washington that is north of Crescent Bar Road and south and east of the Plat of Trinidad according to the Plat thereof Recorded in Volume 1 of Plats, Page 61, Records of Grant County, Washington.

Parcel number 509100000

PARCEL NO. See above	¼	¼	SECTION 18 and 19	TOWNSHIP N. 20 N	RANGE, 23E
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Board's Decision on the Application

MAXIMUM CUB FT/ SECOND .195	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 50	TYPE OF USE, PERIOD OF USE Irrigation of 13 acres April 1- October 31				
SOURCE 2 wells			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO. 150626000 150637004	¼ SE NE	¼ SW SW	SECTION 18 19	TOWNSHIP N. 20N	RANGE 23E	WRIA 41	COUNTY. Grant
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
The SENESW, the NENWSE and the SESWNE of Section 18, T20N, R23 E.W.M. Grant County, Washington. Parcels numbered 150626000 and 150637008.							
PARCEL NO. See above	¼	¼	SECTION 18 and 19	TOWNSHIP N. 20 N	RANGE, 23E		

DESCRIPTION OF PROPOSED WORKS

Two wells to provide irrigation water for a golf course and pasture areas in two developments that are jointly pursuing the development of water rights and related infrastructure.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: 1/1/06	COMPLETE PROJECT BY THIS DATE: 1/1/12	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: 1/1/15 <small>file</small>
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REPORT

BACKGROUND [See WAC 173-153-130(6)(a)]

On 7/28/05 the application was received and approved for processing by the Grant County Conservancy Board. See attached Notice of Application for Changes to a Water Right together with it's affidavit of publication as well as the above summary. The board held an additional public hearing on June 21, 2006 in Chelan, Washington. In addition to publication this notice was sent to the Department of Fish and Wildlife. (see attached) The applicant is selling a portion of his water right to the owners of the proposed place of use pursuant to the terms of a purchase and sale agreement which will result in a reduction in the amount of orchard acres that he will be able to irrigate. The amounts not proposed for change shall be retained on the property. The recipients of the water are developing residential and recreational properties. The development has already acquired municipal water rights for the residential components but requires additional water rights to have an adequate supply for the irrigation of a golf course, landscaping and pastures.

SWC 7263 was originally granted to Frank J. Bagwell with the attributes as detailed above. The applicant has supplied testimony and photos that corroborate that it has been operated as an orchard continuously since that time. An on site inspection on June 21, 2006 by all three board members revealed that the orchard trees had been removed February 2006 as confirmed by Mr. Sackett. This leads the board to conclude that there has not been a relinquishment or an abandonment of the right such that it is eligible for change. The board tentatively determines that the rights extent and validity are consistent with at least 40 acres of orchard had been irrigated as per the amounts as stated on the Certificate. Some property within the existing place of use is owned by Michael Miller and Louis Sorensen who have signed a copy of the published notice to indicate their support for the proposed transfer. These parties properties rely upon certificates issued to Lucille M Winther and Louis

Sorenson, respectively, in the early seventies.

This application was discussed on fourth Thursday of each month until this decision was made. The board has reviewed the proposed project in its entirety and has determined that the proposal falls short of SEPA thresholds such that this application is exempt from SEPA requirements.

COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

Public notice of the application was given in the Columbia Basin Herald on 2/1/06 and 2/8/06. The second public hearing was held in Chelan, Washington on June 21, 2006. Protest period ended on 3/10/06. There were no protests received during the 30 day protest period. In addition, no oral and written comments were received at an open public meeting of the board or other means as designated by the board. Hearings by the board on this application were held on 2/23/06 and 3/23/06 in Grant County and on 6/21/06 in Chelan County.

REVIEW OF RETURN FLOW RCW 90.03.380

Because a change of use is for 50 acres/feet portion of the total 200 acre/feet of the SWC 7263 has been requested. The Water Conservancy Board considered this amount of water subject to return flow calculations of beneficial use as required by RCW 90.03.380. After review of the prior method of irrigation of the orchard a 0% return flow was determined by WCB.

INVESTIGATION [See WAC 173-153-130(6)(c)]

The board obtained and reviewed Department of Ecology files on this water right. The existing point of use was documented by the applicant with photos and written testimony which supported the tentative determination of the extent and validity of the right as set forth above. The proposed place of use was documented with maps depicting the proposed development. The Board conducted site visits to the existing and proposed places of use on 6/15/06 and 2/3/06, respectively. The previous Report of Examination that granted the development municipal rights and also authorized water to be withdrawn from these same points of diversion found that these wells are hydraulically connected to the Columbia River. (See ROE for GWCs 370-D, 371-D, 4178-A and 5428A dated 1/22/2004, the last finding of fact). These findings also support the conclusion that additional withdrawals from these wells will have no impact on adjacent wells. The transfer as proposed will serve to develop the property in a manner consistent with the County Comprehensive Plan which defines the public's interest with regard to land use. Since this transfer will move the point of diversion for some of the water downstream this transfer should tend to enhance in stream flows between these points.

The development is of rather large scale which suggests that it may take quite some time to fully implement the water use and complete the project. The project is anticipated to take part in phases to accommodate timing of market conditions and the completion of the project could be substantially delayed by slow sales.

The applicant submitted two maps. The first shows a proposed golf course and the second shows housing lots surrounding a pasture area. The Applicant indicated that the 13 acres of irrigation proposed for transfer would be used to irrigate the pasture and golf course which are indicated on the maps. In aggregate these areas are much larger than 13 acres so that the applicant will need to acquire more irrigation rights or rely on a portion of their municipal water rights to irrigate the balance of these areas. One third of the water, 4.33 acres worth, will be used to irrigate the golf course within the SENESW of Section 18, T20N, R23 E. The other two thirds, 8.67 acres, will be used within the NENWSE and the SESWNE of said section.

CONCLUSIONS:

- The proposed transfer is exempt for purposes of the SEPA pursuant to WAC 197-11-800 (4)
- As the water rights authorized for change are in a valid exercisable status with regard to the amounts proposed for change, the statutory forfeiture provisions of Chapter 90.14 RCW are not met relative to the amounts requested for change. There is no period of five years in which the amounts authorized for change have not been put to beneficial use. In terms of abandonment, at no time was there intent by the water right holder(s) to abandon rights to these amounts. Approval of this change will not enlarge the right.
- The water proposed for change has been continuously exercised in the amounts and manner from September 1, 1967 to the present.
- The water right is currently located in Chelan County but the change relates in all respects to places of use and points of withdrawal to lands (and waters use thereon) located within Grant County.
- No existing water rights of others will be impaired or otherwise detrimentally affected by approval of the proposed change.
- The proposed change of water right will not significantly affect, in any negative aspect, the quality of the environment.

- The procedures followed in processing the subject application are in compliance with applicable state laws, including RCW 90.03.380-.390 and RCW 90.80.070.
- The proposed changes can be made without injury or detriment to existing water rights.
- The board adopts the findings of the Department of Ecology that the proposed points of diversion are in hydraulic continuity with the Columbia River down stream from the original point of diversion.
- No comments or protests were received by the board.
- In addition the Board concluded that the new use of irrigating the pasture and the golf course was consistent with the use of irrigating an orchard.
- As recognized by the Board there are no objection to the water right transfer by the adjacent property owners.
- The issue of the water right claim filed on the same existing site if mute, because the prior contract sale for foreclosed on and the property returned to the Sacketts.

RECOMMENDATIONS

The board recommends approval of the application as proposed by the applicant.

PROVISIONS AND CONDITIONS

The following provisions are to be included as a part of the application approval decision referred to in the preceding section:

The applicant shall have a development schedule for completion of the facilities related to the changes approved by this Final Order as set forth above. Provided that, for good cause shown, the dates for development set forth above may be extended by the Department of Ecology (hereinafter Ecology) upon request of the applicant.

Upon satisfaction of the development schedule, and notification thereof to the Department of Ecology, two superseding certificates shall be issued to the applicant by the Department of Ecology containing the elements of water rights as follows:

Water right retained on existing place of use:

Name on Certificate, Claim, Permit:	James and Marjory Sackett
Priority Date, First Use:	3/12/1957
Instantaneous Quantity:	.585 cubic feet per second (262.5 gpm)
Annual Quantity:	150 acre feet
Source:	Columbia River
Point of Diversion:	SW ¼ of the NW ¼ of Section 10, T 26N, R22E W.M. in Chelan County, Parcel Number 262210515165
Purpose of Use: (number of acres irrigated)	irrigation of 37 acres
Period of Use:	April 1 to October 31
Place of Use:	Lots 1-3,12-15, Block 6, Chelan Butte Orchards, Volume 2 of Plats, Pages 56 and 57, Section 9 and 10, T26N., R.22 E.W.M. and Government Lots 1 and 2, Section 9, T26N., R.22 E.W.M. in Chelan County, Washington

Transferred Water Right:

Certificate Name:	Riverview at Crescent Bar, LLC. and Ross Clemenshaw
Priority Date:	3/12/1957
Instantaneous Quantity	.195 cubic feet per second (87.5 gallons per minute)
Annual Quantity	50 acre feet
Source	2 wells
Point of Diversion	SE1/4 of the SW ¼ of Section 18, T26N, R22 E.W.M. parcel number 150626000 and the NE1/4 of the SW ¼ of Section 19, T26N, R22 E.W.M. parcel number 150637004 all in Grant County, Washington
Purpose of Use:	Irrigation of 13 acres
Period of Use:	April 1 to October 31
Place of Use:	The SENESW, the NENWSE and the SESWNE of Section 18, T20N, R23 E.W.M. Grant County, Washington. Parcels numbered 150626000 and 150637008.

These superseding certificates and the rights they represent will be subject to the Requirements

for Measuring and Reporting Water Use, Chapter 173-173 WAC. An approved measuring device shall be installed and maintained in accordance with RCW 90.03.360 and chapter 508-64 WAC. Meter readings shall be recorded at least monthly and shall be made available to the Department of Ecology upon request. The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, Certificate No., source name, and Department of Health WFI water system number and source number(s) if applicable. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

The applicants are not permitted to withdraw water, based on this Decision of Approval of Changes, until a final decision by the director of the Department of Ecology is rendered as provided in RCW 90.80.080.

This authorization to make use of public waters of the State is subject to public health laws rules and regulations as promulgated by the State Department of Health.

This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and game fish screening criteria (pursuant to RCW 77.55.040).

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

All water wells constructed within the state shall meet the minimum standards for construction and maintenance as provided under RCW 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells).

Signed at Moses Lake, Washington.
August 24, 2006.



W. Ron Baker
Grant County Water Conservancy Board

For attachments not included or for more information please contact:

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